

**Introduced by Committee on Insurance (Senators Calderon (Chair),
Anderson, Corbett, Correa, Gaines, Lowenthal, Price, and
Wyland)**

February 18, 2011

An act to amend Section 1215 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 714, as introduced, Committee on Insurance. Insurance: holding companies.

Existing law, the Insurance Holding Company System Regulatory Act, provides for regulation by the Department of Insurance of certain transactions involving 2 or more affiliated persons, at least one of which is an insurer. Under the act, the Insurance Commissioner is authorized to order an insurer subject to registration to produce records, books, or other information or papers in the possession of the insurer or its affiliates as necessary to ascertain the financial condition or legality of conduct of the insurer, as specified.

This bill would, for purposes of the act, revise the definition of “insurer” to exclude agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state. The bill would further define the term “enterprise risk” to mean any activity, circumstance, or event, or series of events, involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its holding company system as a whole, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1215 of the Insurance Code is amended
2 to read:
3 1215. As used in this article, the following terms shall have
4 the respective meanings hereinafter set forth, unless the context
5 shall otherwise require:
6 (a) An “affiliate” of, or person “affiliated” with, a specific
7 person, is a person that directly, or indirectly, through one or more
8 intermediaries, controls, or is controlled by, or is under common
9 control with, the person specified.
10 (b) The term “control” includes the terms “controlling,”
11 “controlled by,” and “under common control with,” and means
12 the possession, direct or indirect, of the power to direct or cause
13 the direction of the management and policies of a person, whether
14 through the ownership of voting securities, by contract other than
15 a commercial contract for goods or nonmanagement services, or
16 otherwise, unless the power is the result of an official position with
17 or corporate office held by the person. Control shall be presumed
18 to exist if any person, directly or indirectly, owns, controls, holds
19 with the power to vote, or holds proxies representing, more than
20 10 percent of the voting securities of any other person. This
21 presumption may be rebutted by a showing that control does not
22 exist in fact pursuant to the filing of a disclaimer of affiliation in
23 accordance with subdivision (l) of Section 1215.4. The
24 commissioner may, after furnishing all persons in interest notice
25 and opportunity to be heard, determine that control exists in fact,
26 notwithstanding the absence of a presumption to that effect.
27 (c) An “insurance holding company system” consists of two or
28 more affiliated persons, one or more of which is an insurer.
29 (d) “Insurer” shall have the same meaning as set forth in Section
30 826 of this code, excluding subdivisions (e) and (f) of that section,
31 and excluding agencies, authorities, or instrumentalities of the
32 United States, its possessions and territories, the Commonwealth
33 of Puerto Rico, the District of Columbia, or a state or political
34 subdivision of a state.

1 (e) “Person” is an individual, a corporation, a partnership, an
2 association, a joint stock company, a business trust, an
3 unincorporated organization, or any similar entity, or any
4 combination thereof acting in concert.

5 (f) A “subsidiary” of a specified person is an affiliate controlled
6 by that person directly, or indirectly through one or more
7 intermediaries.

8 (g) “Business day” is any day other than Saturday, Sunday, and
9 any other day that is specified or provided for as a holiday in the
10 Government Code.

11 (h) *“Enterprise risk” means any activity, circumstance, or event,*
12 *or series of events, involving one or more affiliates of an insurer*
13 *that, if not remedied promptly, is likely to have a material adverse*
14 *effect upon the financial condition or liquidity of the insurer or its*
15 *insurance holding company system as a whole, including, but not*
16 *limited to, anything that would cause the insurer’s risk-based*
17 *capital to fall into company action level as set forth in Sections*
18 *739 and 739.3 or would cause the insurer to be in hazardous*
19 *financial condition, as defined in Section 130.*